Memorandum MIAMI-DADE COUNTY

Date: December 9, 2008

GOE
Agenda Item No. 2(D)

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Road Closing P-863
Section: 1-54-41
A Portion of NW 2 Street, from Downtown Government Center East to NW 1 Avenue.
Commission District: 5

Recommendation

It is recommended that the Board of County Commissioners (BCC) set a public hearing to close the subject right-of-way. The Miami-Dade County Public Works Department (PWD) has no objection to closing the subject right-of-way.

Scope

The subject road right-of-way is located within Commission District 5.

Fiscal Impact/Funding Source

There is no fiscal impact associated with this item.

Track Record/Monitor

Not Applicable.

Background

The Director of the PWD, pursuant to the functions, powers and duties prescribed in Article XIV, Sec. 2-100 (a), (b) and (c) of the Code of Miami-Dade County Volume I, has taken the initiative to request that the BCC grant the closing of the subject road right-of-way.

The subject road, (theoretical) NW 2 Street, from the Government Center East to NW 1 Avenue, was acquired by Miami-Dade County by eminent domain proceedings as shown on that certain Right of Way Map for NW 2 Street as recorded in Plat Book 76, Page 96 of the Public Records of Miami-Dade County, Florida. The area surrounding the said right-of-way is zoned Business District.

The right-of-way being closed has been closed to vehicular traffic since the Government Center was built, therefore, this action will not adversely impact vehicular traffic flow or traffic continuity in the area.

Miami-Dade County (County) owns the eastern portion of the subject right-of-way in fee simple, and the western portion as a right-of-way easement. The properties abutting the subject right-of-way on the north and south are owned by Flagler Development Company (Flagler). Flagler filed the tentative plat of Gran Central Subdivision with the City of Miami (City), which shows the subject road being closed. The surveyor that prepared the plat is no longer in business and to modify the present plat would entail starting the process from zero which would be a hardship for Flagler. The proposal is to close the subject road to allow Flagler to obtain final plat approval from the City. In order to accomplish this and at the same time protect the County interests, Flagler has agreed to execute an Agreement with the County whereby it agrees to deed back to the County the land for NW 2 street with the exception of the portion being dedicated as part of NW 1 Avenue. The attached resolution and agreement are giving Flagler 60 days from the approval of the subject road closing to obtain City and County approval of the Plat and record it in the Public Records, or the road closing is null and void. It also prohibits any construction work to be done, any disturbance of utilities located in the right-of-way or any encumbrance on the subject right-of-way being closed in any way.

It is therefore recommended, that the Board approve the subject road right-of-way closing.

Assistant County Manager

Note: The Clerk is directed to publish notice of a public hearing on this Road Closing Resolution in a newspaper of general circulation in Miami-Dade County, one (1) time, at least two (2) weeks prior to the date of said public hearing in conformity with the statutory requirements.

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: December 2, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor Agenda Item No.
Veto _____
Override _____

RESOLUTION NO. _____

RESOLUTION GRANTING CLOSURE OF NW 2 STREET, FROM DOWNTOWN GOVERNMENT CENTER EAST TO NW 1 AVENUE (ROAD CLOSING RESOLUTION NO. P-863), AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN MIAMI-DADE COUNTY AND FLAGLER DEVELOPMENT COMPANY, AND ACCEPTING A WARRANTY DEED FROM SAID FLAGLER DEVELOPMENT COMPANY FOR SAID PROPERTY

WHEREAS, the County Commission held a public hearing to consider closing NW 2 Street, from Downtown Government Center East to NW 1 Avenue, as outlined in the accompanying memorandum, a copy of which is incorporated herein by reference and shown on Exhibit "A" and legally described in Exhibit "B"; and

WHEREAS, Flagler Development Company is in the process of obtaining approval for the subdivision plat of GRAN CENTRAL SUBDIVISION; and

WHEREAS, a condition of approval of the Plat of GRAN CENTRAL SUBDIVISION is to have ownership of all the property platted therein including the property designated as NW 2 Street from the Government Center to NW 1 Avenue; and

WHEREAS, Miami-Dade County does not wish to relinquish permanently ownership of said NW 2 Street, from Downtown Government Center East to NW 1 Avenue; and

WHEREAS, Miami-Dade County does not wish to permanently relinquish ownership and control of its entry way into Downtown Government Center from NW 1 Avenue; and

WHEREAS, Flagler Development Company has agreed to deed the entry way to Miami-Dade County after the recordation of its plat,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, (1) that the closing of NW 2 Street from the Government Center east to NW 1 Avenue is subject to the recording of the plat of GRAN CENTRAL SUBDIVISION, tentative plat T-16366, within 60 days of the approval of this resolution, that in the event that the plat is not recorded within said period of time this resolution becomes null and void; (2) that the street, road or other place used for travel as described in the attached petition is hereby vacated, abandoned and closed, except no utilities located within said right-of-way shall be disturbed and Miami-Dade County retains the right to claim future ownership of the property under any subsequent deed of conveyance; (3) it is found that the action will serve a public purpose and benefit the public without violating private property rights; (4) that the procedure utilized in the adoption of this resolution is expressly ratified and approved; (5) that this Board authorizes the Mayor to execute the attached agreement between Miami-Dade County and Flagler Development Company and accept the attached deed from Flagler Development Company to Miami-Dade County as stipulated in said agreement; (6) the Clerk is hereby directed to publish notice of the adoption of this resolution one time within thirty (30) days hereafter in a newspaper of general circulation of Miami-Dade County.

The foregoing resolution was offered by Commissioner ,

who moved its adoption. The motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

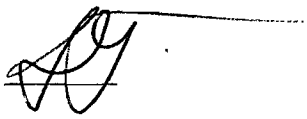
The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of December, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

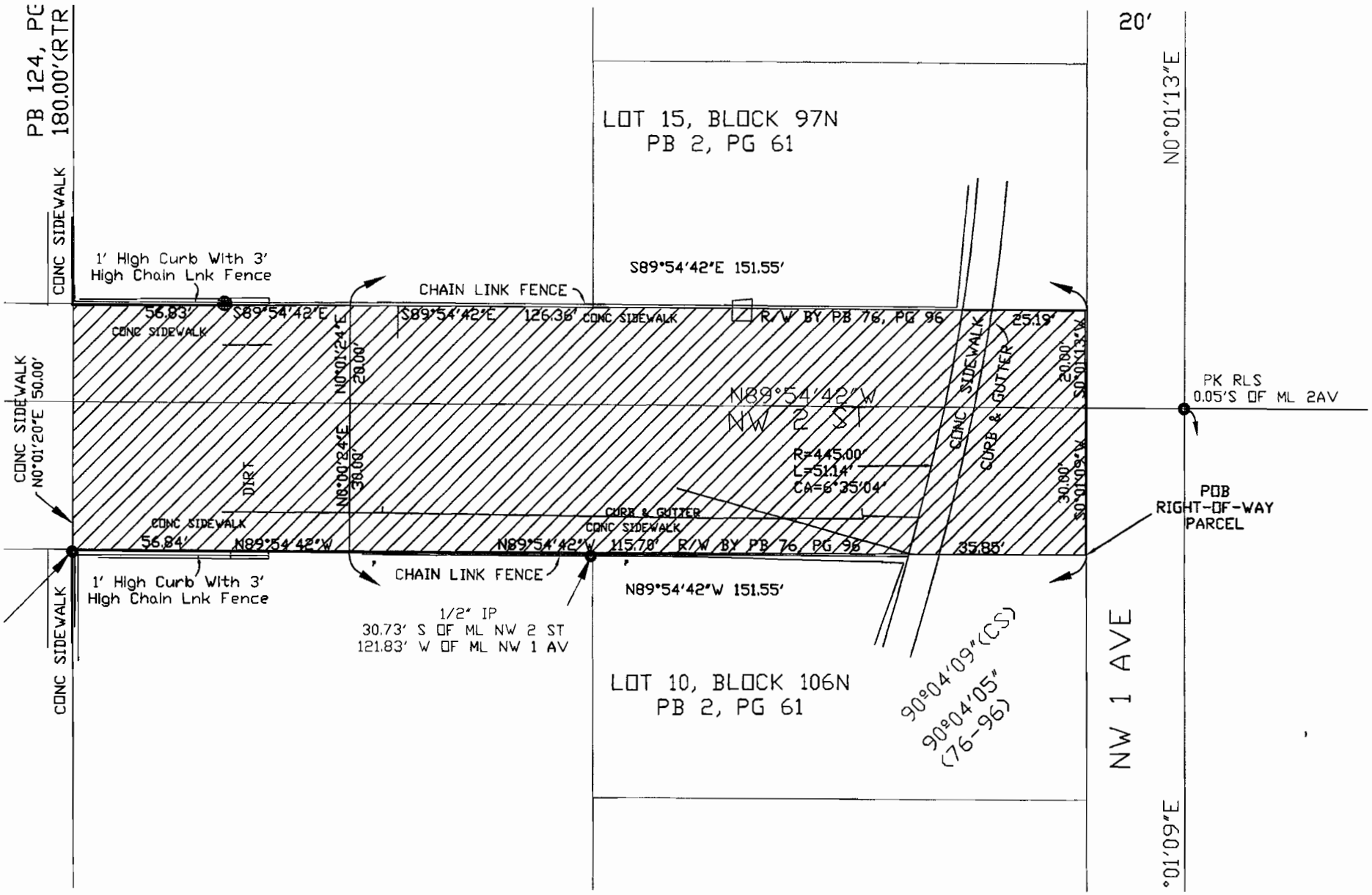
HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Thomas Goldstein



MIAMI-DADE

MIAMI–DADE COUNTY PUBLIC WORKS DEPARTMENT
RIGHT OF WAY
11 NW 1st STREET, Suite 1610, MIAMI FLORIDA 33128

P–863

EXHIBIT "A" (Road Closing)

NW 1ST AVE AND NW 2ND STREET

PWD

August 20, 2008
wn by: Y. Moreno

Exhibit "B"(Road Closing)
LEGAL DESCRIPTION

RIGHT-OF-WAY EASEMENT PARCEL

A portion of the right-of-way easement of NW 2 Street recorded in Official Record Book 4798, Page 139 and as shown on the Miami-Dade County Public Works Department Right-of-Way Map of NW 2 Street From NW 1 Court to NW 1 Avenue according to the plat thereof as recorded in Plat Book 76, Page 96, all of the Public Records of Miami-Dade County, Florida being more particularly described as follows;
COMMENCE at the Northeast corner of Lot 10, Block 106N of RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI according to the plat thereof as recorded in Plat Book 2, Page 61, of the Public Records of Miami-Dade County, Florida; said Northeast corner also being the intersection of the West right-of-way line of NW 1 Avenue, said West right-of-way line being 20.00 feet West of and parallel to the Monument Line of NW 1 Avenue as shown on the City of Miami Municipal Atlas sheet 36G, with the South right-of-way line of NW 2 Street, said South right-of-way line being 30.00 feet South of and parallel to the Monument Line of the above mentioned NW 2 Street; THENCE N 89°54'42"W along the North line of said Lot 10 and along the South right-of-way line of said NW 2 Street for 151.55 feet to the POINT OF BEGINNING; THENCE continue N 89°54'42"W along the South line of said right-of-way easement of NW 2 Street for 56.84 feet to the East right-of-way line of Metro Rail as shown on the NORTH CORRIDOR RIGHT-OF-WAY MAP according to the plat thereof as recorded in Plat Book 124, Page 20 of the Public Records of Miami-Dade County, Florida; THENCE N0°01'20"E along said East right-of-way line for 50.00 feet to the North line of said right-of-way easement of NW 2 Street; THENCE S89°54'42"E along said North line of the right-of-way easement of NW 2 Street for 56.83 feet; THENCE S0°01'24"W for 20.00 feet to the Monument Line of said NW 2 Street; THENCE S0°00'24"W for 30.00 feet to the POINT OF BEGINNING.

RIGHT-OF-WAY PARCEL

A portion of the right-of-way of NW 2 Street as shown on the Miami-Dade County Public Works Department Right-of-Way Map of NW 2 Street From NW 1 Court to NW 1 Avenue according to the plat thereof as recorded in Plat Book 76, Page 96, formerly known as 10 Street, as shown on RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI according to the plat thereof as recorded in Plat Book 2, Page 61, all of the Public Records of Miami-Dade County, Florida, being more particularly described as follows;
BEGIN at the Northeast corner of Lot 10, Block 106N of said RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI, said Northeast corner also being the intersection of the West right-of-way line of NW 1 Avenue, said West right-of-way line being 20.00 feet West of and parallel to the Monument Line of NW 1 Avenue as shown on the City of Miami Municipal Atlas sheet 36G, with the South right-of-way line of NW 2 Street, said South right-of-way line being 30.00 feet South of and parallel to the Monument Line of the above mentioned NW 2 Street; THENCE N 89°54'42"W along the North line of said Lot 10 and along the South right-of-way line of said NW 2 Street, for 151.55 feet; THENCE N 0°00'24"E for 30.00 feet to the Monument Line of said NW 2 Street; THENCE N0°01'24"E for 20.00 feet to the North right-of-way line of said NW 2 Street; THENCE S89°54'42"E along said North right-of-way line of NW 2 Street and along the South line of said Lot 15, Block 97N of

Exhibit "B"(Road Closing)
LEGAL DESCRIPTION

said RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI for 151.55 feet to the Southeast corner of said Lot 15, said Southeast corner also being the intersection of a line 20.00 feet West of and parallel to the Monument Line of NW 1 Avenue with a line 20.00 feet North of and parallel to the Monument Line of the said NW 2 Street; THENCE S0°01'13"W along the Southerly extension of the West right-of-way line of said NW 1 Avenue for 20.00 feet to the Monument Line of said NW 2 Street; THENCE S00°01'09"W along the Northerly extension of the West right-of-way line of said NW 1 Avenue for 30.00 feet to the POINT OF BEGINNING.

AGREEMENT FOR CONVEYANCE

THIS AGREEMENT, made this _____ day of 2008, by Flagler Development Company. a Florida Corporation, whose address is 10151 Deerwood Park Boulevard, # 330, Jacksonville, Florida 32256, hereinafter referred to as "Developer" and Miami-Dade County, a political subdivision of the State of Florida, whose address is 111 NW 1st Street, 16 Floor, Miami, Florida 33128, hereinafter referred to as the "County".

WITNESSETH

WHEREAS, Developer has filed the Plat of Gran Central Subdivision "the Plat" with the City of Miami; and

WHEREAS, said Plat was originally filed with the intention of closing that portion of NW 2nd Street located East of the Metro rail line and West of NW 1 Avenue as shown on Exhibit A (Road Closing), hereinafter referred as the "Property"; and

WHEREAS, said street is owned by the County, in fee and as a right of way easement;

WHEREAS, the County does not wish to permanently relinquish ownership of its entry way Property into the Government Center from NW 1 Avenue.

WHEREAS, the Developer has agreed to deed the Property back to Miami-Dade County after approval and recordation of the Plat.

NOW, THEREFORE, in consideration of the covenants and conditions of this agreement, the receipt of which is hereby acknowledged, the parties agree as follows:

1. The County will present a road closing resolution to the Board of Miami-Dade County Commissioners ("Board") for closure of NW 2 Street from the Government Center East to NW 1 Avenue.
2. If the Board adopts said road closing resolution, the Developer shall have 60 calendar days to proceed with the final plat of Gran Central Subdivision through the approval process of both the City of Miami and Miami-Dade County including having the subject Plat recorded in the Public Records of Miami Dade County.
3. The Developer shall provide a Warranty Deed to the County, copy attached hereto, for that portion of the Property shown on Exhibit A (Conveyance) and legally described in Exhibit B (Conveyance) attached to the Warranty Deed, to be

recorded concurrent with the Plat of Gran Central Subdivision.

4. Any failure to comply with the above conditions will automatically make the road closing and the Final Plat null and void and the County will file in the Public Records affidavits signed by the Public Works Director to reflect these actions.

5. The Developer covenants that it will not in any way disturb the utilities located within the Property, that it will not attempt to pull permits, initiate any construction, conduct any demolition, mortgage or in any way encumber the Property during the term of possession by the Developer of the Property

6. The Developer covenants that it will indemnify and save the County harmless against any and all liability, loss, cost, penalty, damage, expense, and judgment arising from injury or by damage during the term of possession of the Property to persons or property, occasioned in whole or in part by any act or omission of the Developer, or of any business associates, guests, customers, employees or agents of the Developer growing out of the use and occupancy of the Property

IN WITNESS WHEREOF, the Developer and the County have caused this Agreement to be executed by duly authorized officers on the dates indicated below.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be executed in its name, and its Corporate Seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, Sealed, Attested and delivered in our presence:
*(**2 witnesses** for each signature or for all).*

_____
Witness

_____
Printed Name

_____
Witness

_____
Printed Name

_____
Witness

_____
Printed Name

_____
Witness

_____
Printed Name

_____
Name of Corporation

_____(Sign)

By: _____ President

_____
Printed Name

_____
Address if different

_____(Sign)

Attest: _____ Secretary

_____
Printed Name

_____
Address if different

CORP SEAL

STATE OF _____)
)
COUNTY OF _____)

I HEREBY CERTIFY, that on this ____ day of _____, A.D. 2008, before me, an officer duly authorized to administer oaths and take acknowledgments personally appeared_____ _____ and _____, personally known to me, or proven, by producing the following identification: _____ to be the _____ President and _____ Secretary of _____, a corporation under the laws of the State of _____, and in whose name the foregoing instrument is executed and that said officer(s) severally acknowledged before me that _____ executed said instrument acting under the authority duly vested by said corporation and its Corporate Seal is affixed thereto.

WITNESS my hand and official seal in the County and State aforesaid, the day and year last aforesaid.

_____
Notary Signature

_____
Printed Notary Name

NOTARY SEAL/STAMP Notary Public, State of _____

My commission expires: _____

Commission/Serial No. _____

The foregoing was accepted and approved on the _____ day of _____, A.D. 2008, by Resolution No._____ of the Board of County Commissioners of Miami-Dade County, Florida.

_____
Assistant County Manager

ATTEST: HARVEY RUVIN,

Clerk of said Board

By:_____
Deputy Clerk

Approved as to form

and legal sufficiency

_____
Assistant County Attorney

Return to:
Right of Way Division
Miami-Dade County Public Works Dept
111 N.W. 1st Street
Miami, FL 33128-1970

Instrument prepared by:

Luis F. Lacau Jr., P.L.S.
Miami-Dade County Public Works Dept
111 N.W. 1st Street
Miami,FL 33128-1970

Folio No. N/A

WARRANTY DEED
BY CORPORATION

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

THIS INDENTURE, Made this _____ day of _____, A.D. 200___, by and between **FLAGLER DEVELOPMENT COMPANY** a corporation under the laws of the State of FLORIDA, and having its office and principal place of business at _____ _____ _____, party of the first part, and the **COUNTY OF MIAMI-DADE,** a Political Subdivision of the State of Florida, and its successors in interest, whose Post Office address is 111 N.W. 1st Street, Miami, Florida 33128-1970, party of the second part,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of One Dollar ($1.00) to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, and for other and further good and valuable considerations, does hereby grant, bargain, sell and convey to the party of the second part, its successors and assigns forever, the following described land, situate, lying and being in the County of Miami-Dade, State of Florida, to-wit:

See Legal Description attached as Exhibit "B" (Conveyance) and depicted in Exhibit "A" (Conveyance)

TO HAVE AND TO HOLD THE SAME, together with all and singular the appurtenances thereto belonging or in any way incident or appertaining, forever; and the party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be executed in its name, and its Corporate Seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, Sealed, Attested
and Delivered in our presence
(2 witnesses for each signature
or for all)

_____
Corporate Name - Printed

_____ (SEAL)
By: President

_____
Witness

_____
Witness Printed Name

_____
Printed Name

_____
Address (if different)

_____ (SEAL)
Attest: Secretary

_____
Witness

_____
Witness Printed Name

_____
Printed Name

CORP SEAL

STATE OF _____)
)
COUNTY OF _____)

I HEREBY CERTIFY, that on this _____ day of _____, A.D. 200__, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____ and _____, personally known to me, or proven, by producing the following identification: _____ _____ to be the _____ President and _____ Secretary of _____, a corporation under the laws of the State of _____, and in whose name the foregoing instrument is executed and that said officer(s) severally acknowledged before me that ____ executed said instrument acting under the authority duly vested by said corporation and its Corporate Seal is affixed thereto.

WITNESS my hand and official seal in the County and State aforesaid, the day and year last aforesaid.

_____
Notary Signature

_____
Printed Notary Signature

NOTARY SEAL/STAMP

Notary Public, State of _____

My commission expires: _____

Commission/Serial No. _____

The foregoing was obtained pursuant to Resolution No. _____ of the Board of County Commissioners of Miami-Dade County, Florida, passed and adopted on the _____ day of_____, A.D. 200__.

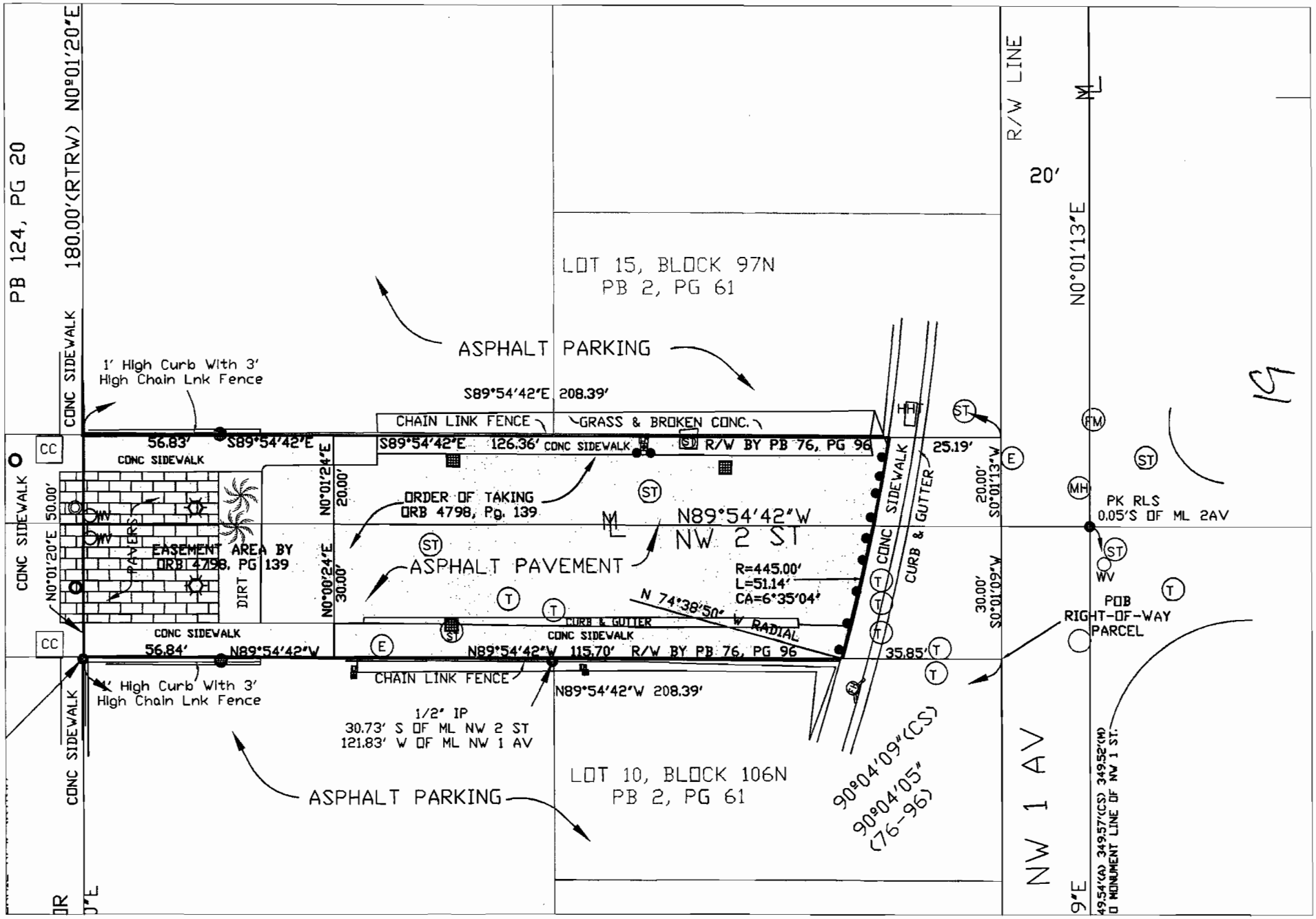
Exhibit "B" (Conveyance)
LEGAL DESCRIPTION

A portion of the right-of-way of NW 2 Street as shown on the Miami-Dade County Public Works Department Right-of-Way Map of NW 2 Street From NW 1 Court to NW 1 Avenue according to the plat thereof as recorded in Plat Book 76, Page 96, formerly known as 10 Street, as shown on RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI according to the plat thereof as recorded in Plat Book 2, Page 61, all of the Public Records of Miami-Dade County, Florida, being more particularly described as follows;
BEGIN at the Northeast corner of Lot 10, Block 106N of said RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI, said Northeast corner also being the intersection of the West right-of-way line of NW 1 Avenue, said West right-of-way line being 20.00 feet West of and parallel to the Monument Line of NW 1 Avenue as shown on the City of Miami Municipal Atlas sheet 36G, with the South right-of-way line of NW 2 Street, said South right-of-way line being 30.00 feet South of and parallel to the Monument Line of the above mentioned NW 2 Street; THENCE N 89°54'42"W along the North line of said Lot 10 and along the South right-of-way line of said NW 2 Street, for 208.39 feet to the East right-of-way line of Metro Rail as shown on the NORTH CORRIDOR RIGHT-OF-WAY MAP according to the plat thereof as recorded in Plat Book 124, Page 20 of the Public Records of Miami-Dade County, Florida; THENCE N0°01'20"E along said East right-of-way line for 50.00 feet to the North line of said right-of-way easement of NW 2 Street; THENCE S89°54'42"E along said North right-of-way line of NW 2 Street and along the South line of said Lot 15, Block 97N of said RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI for 208.39 feet to the Southeast corner of said Lot 15, said Southeast corner also being the intersection of a line 20.00 feet West of and parallel to the Monument Line of NW 1 Avenue with a line 20.00 feet North of and parallel to the Monument Line of the said NW 2 Street; THENCE S0°01'13"W along the Southerly extension of the West right-of-way line of said NW 1 Avenue for 20.00 feet to the Monument Line of said NW 2 Street; THENCE S00°01'09"W along the Northerly extension of the West right-of-way line of said NW 1 Avenue for 30.00 feet to the POINT OF BEGINNING.

LESS

BEGIN at the above mentioned Northeast corner of Lot 10, Block 106N of said RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI, said Northeast corner also being the above mentioned intersection of the West right-of-way line of NW 1 Avenue with the South right-of-way line of NW 2 Street; THENCE N 89°54'42"W along the North line of said Lot 10 and along the South right-of-way line of said NW 2 Street, for 35.85 feet to the intersection with a non tangent circular curve concave to the Northwest, the radius point of said curve bearing N74°38'50"W from said point of intersection; THENCE Northeasterly along the arc of said curve to the left, having a radius of 445.00 feet, through a central angle of 6°35'04" for 51.14 feet to the intersection with the above mentioned North right-of-way line of NW 2 Street also being the South line of the above mentioned Lot 15, Block 97N of said RESUBDIVISION OF PART OF BLOCKS 77N, 86N, 97N AND 106N OF THE CITY OF MIAMI; THENCE S 89°54'42"E along said North right-of-way line of NW 2 Street

and South line of the Lot 15 for 25.19 feet to the Southeast corner of said Lot 15 also being the intersection of the said West line of NW 1 Avenue with the North line of said NW 2 Street; THENCE S0°01'13"W along the Southerly extension of the West right-of-way line of said NW 1 Avenue for 20.00 feet to the Monument Line of said NW 2 Street; THENCE S00°01'09"W along the Northerly extension of the West right-of-way line of said NW 1 Avenue for 30.00 feet to the POINT OF BEGINNING.



MIAMI-DADE

MIAMI-DADE COUNTY PUBLIC WORKS DEPARTMENT
RIGHT OF WAY
111 NW 1st STREET, Suite 1610, MIAMI FLORIDA 33128

EXHIBIT "A" (CONVEYANCE)

P-863 NW 1 AVE & NW 2 ST

PWD

September 4, 2008

by: Y. Moreno